



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

DEC 18 2018

CECW-P

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1177 of the Water Resources Development Act of 2016 (WRDA 2016), Rehabilitation of U.S. Army of Engineers Constructed Dams

1. Section 1177 of WRDA 2016 was completed and signed on 7 December 2018. The implementation guidance is posted in the U.S. Army Corps of Engineers website: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. All questions regarding this implementation guidance should be directed to Jacob Davis, Dam Safety Program Manager, Engineering and Construction Division, Headquarters, at 202-761-4643 or Jacob.R.Davis@usace.army.mil.

A handwritten signature in blue ink, appearing to read "James C. Dalton".

JAMES C. DALTON, P.E.
Director of Civil Works

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DEPARTMENT OF THE ARMY
ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

7 DEC 2018

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Implementation Guidance for Section 1177 of the Water Resources Development Act of 2016, Rehabilitation of U.S. Army Corps of Engineers Constructed Dams

1. Section 1177 of the Water Resources Development Act of 2016 (WRDA 2016) authorizes the Secretary of the Army to carry out the rehabilitation of a select subset of dams operated by non-Federal interests. To be eligible, the dam must have been constructed, in whole or in part, by the U.S. Army Corps of Engineers (USACE) for flood control purposes; construction was completed before 1940; the dam is classified as a "high hazard potential" by a state dam safety office; and the dam is currently operated by a non-Federal entity. A copy of Section 1177 of WRDA 2016 is enclosed.
2. Since all dams eligible for Section 1177 assistance are non-Federal dams, no rehabilitation work shall be initiated until Congress has appropriated funds for such work, including the initial risk assessment and the Dam Safety Modification Report (DSMR). No Dam Safety and Seepage/Stability Correction Program ("Wedge") funds shall be used to implement any work, to include studies or reports, under the Section 1177 authority. For fiscal years 2017-2026, Section 1177 authorizes \$10M per year. The \$10M annual appropriation can be allocated to one project, or sub-divided for several projects. Section 1177 prohibits expending more than \$10M for a project at any single dam.
3. A non-Federal interest shall provide 35% of the cost of construction of any project carried out under this section, including provisions of all land, easements, rights-of way, and necessary relocations. All costs above the amount appropriated by Congress for such work must be borne by the non-Federal interest.
4. Authority is hereby delegated directly to USACE District Commanders¹ to make the feasibility determination required in Section 1177(a). In making a feasibility

¹ This delegation of authority is not delegable below the District Commander level. District Commanders will be held accountable for any and all actions taken pursuant to this delegation of authority. Although not a limitation of this authority, District Commanders shall exercise sound judgment in keeping the Assistant Secretary of the Army for Civil Works directly informed of any action under this delegation that will have significant White House, congressional, DOD, or public interest or would represent a significant change in Army precedent or policy. If such circumstance arises, District Commanders shall coordinate

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determination under this Section, the District Commander shall utilize all available and applicable USACE engineering standards for dam construction and modification. For example, the District Commander shall perform a risk assessment to determine if the risk is actionable under USACE's tolerable risk guidelines.

5. After completion of the risk assessment, the District Commander shall complete a Dam Safety Modification Report (DSMR) to recommend a selected risk management option and to define the scope of work to be accomplished. The District Commander will send the completed DSMR to the Major Subordinate Command (MSC) Dam Safety Officer for review and concurrence. The MSC Dam Safety Officer will complete the review No Later Than 30 days from receipt of the DSMR. The MSC Dam Safety Officer will then send the DSMR directly to Headquarters, USACE, ATTN: Director of Civil Works (DCW), for review and concurrence. The DCW will complete the review of the DSMR within 30 days from receipt. With the DCWs' concurrence, the DSMR will serve as the basis for the District Commander negotiating a design agreement with the non-Federal interest (NFI).

6. The draft design agreement shall be submitted by the District Commander directly to Headquarters, USACE, ATTN: Director of Civil Works. The Director of Civil Works shall review and approve the design agreement No Later Than 30 calendar days from receipt.

7. After the design agreement is executed, the District Commander may proceed with the design of the rehabilitation work, provided that funding has been appropriated. The District Commander will send the design to the MSC Dam Safety Officer who will approve within 30 days of receipt the final design without the need for higher level reviews.

8. No Later Than 30 days after the final design is approved, the District Commander shall submit the draft Project Partnership Agreement, contemplated by Section 1177(d), directly to the Assistant Secretary of the Army for Civil Works (ASA-CW) with his recommendation for ASA-CW review and approval within 30 days of receipt

9. Provided that funding has been appropriated, the District Commander will proceed with the rehabilitation work. The MSC Dam Safety Officer will oversee the construction.

directly with the Office of the Assistant Secretary of the Army for Civil Works to ensure appropriate guidance is received.

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10. Questions regarding this implementation guidance should be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works, at gib.a.owen.civ@mail.mil or 703-695-4641.

A handwritten signature in black ink that reads "R. D. James". The signature is written in a cursive style with a large, stylized initial "R".

R. D. JAMES
Assistant Secretary of the Army
(Civil Works)

Enclosure
As stated

**SEC. 1177. REHABILITATION OF CORPS OF ENGINEERS CONSTRUCTED DAMS.
of WRDA 16**

(a) **IN GENERAL.** If the Secretary determines that the project is feasible, the Secretary may carry out a project for the rehabilitation of a dam described in subsection (b).

(b) **ELIGIBLE DAMS.** A dam eligible for assistance under this section is a dam

- (1) that has been constructed, in whole or in part, by the Corps of Engineers for flood control purposes;
- (2) for which construction was completed before 1940;
- (3) that is classified as "high hazard potential" by the State dam safety agency of the State in which the dam is located; and
- (4) that is operated by a non-Federal entity.

(c) **COST SHARING.** Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all land, easements, rights-of-way, and necessary relocations.

(d) **AGREEMENTS.** Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary

- (1) to pay the non-Federal share of the costs of construction under subsection (c); and
- (2) to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

(e) **COST LIMITATION.** The Secretary shall not expend more than \$10,000,000 for a project at any single dam under this section.

(f) **FUNDING.** There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2017 through 2026.